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In re Application of	:	
GRAEBNER	:	
PCT No.: PCT/DE03/00808	:	SUPPLEMENTAL
Application No.: 10/506,317	:	
Int. Filing Date: 07 March 2003	:	DECISION ON PETITION
Priority Date: 08 March 2002	:	
Atty. Docket No.: 040648-US	:	UNDER 37 CFR 1.137(b)
For: DRIVE DISK FOR HIGH PERFORMANCE	:	
FRICTION PAIRINGS	:	

This supplemental decision corrects an error in the application number of a decision mailed to applicant on 27 May 2008. The decision is in response to applicant's petition under 37 CFR § 1.137(b) filed 13 June 2006 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 07 March 2003, applicant filed international application PCT/DE03/00808 which claimed priority to an earlier application filed 08 March 2002. A copy of the international application was transmitted by the International Bureau on 18 September 2003. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States expired at midnight on 08 September 2004.

On 30 August 2004, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by a translation of the international application into English, an Information Disclosure Statement, a preliminary amendment and executed declaration of the inventor. Applicant did not provide payment of the full U.S. basic national fee.

On 30 March 2005, applicant was mailed a "Notification of Abandonment" (Form PCT/DO/EO/909) informing applicant that the application was abandoned as to the United States for failure to provide payment of the full U.S. basic national fee prior to the expiration of thirty months from the priority date.

On 13 June 2006, applicant filed the present petition to revive under 37 CFR 1.137(b).

DISCUSSION

37 CFR 1.137(b) permits the filing of a petition to revive an abandoned application where

the abandonment resulted from an unintentional delay. A grantable petition under this section must include: (1) the required reply, unless previously filed; (2) the petition fee required by law; (3) a statement that the "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional;" and (4) any terminal disclaimer and fee required pursuant to 37 CFR 1.137(c).

Applicant has satisfied items (1) and (2). These fees will be charged to deposit account number 14-1263 as authorized. It is noted that item (4) does not apply to the present application.

Regarding item (3), the signed statement of counsel calls into question the accompanying statement of unintentional delay in the petition. Specifically, counsel states that, "The reasons for by abandonment are not known to Applicant's newly appointed attorney who signed this petition..." Counsel then states that, "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional." This can not be true as counsel admits that the proper reply is unknown. Thus it is clear that counsel cannot provide the statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional.

In light of the above, it is not possible to grant applicant's petition at this time.

CONCLUSION

For the reasons stated above, applicant's petition to revive under 37 CFR 1.137(b) is **DISMISSED**.

The decision mailed 27 May 2008 is hereby **VACATED**. If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)." No additional petition fee is required.

Please direct further correspondence with respect to this matter to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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